

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Policy for Licensing Domestic Satellite)	IB Docket No. 02-30
Earth Stations in the Bush)	
Communities of Alaska)	RM No. 7246

COMMENTS OF AT&T AND ALASCOM

AT&T Corp. ("AT&T") and its wholly-owned subsidiary Alascom, Inc. ("Alascom") hereby submit their Comments in response to the Notice of Proposed Rulemaking, released on February 15, 2002 ("NPRM"), in the above-captioned proceeding.¹ As demonstrated below, in the NPRM, the Commission tentatively seeks to eliminate the Alaska Bush Earth Station Policy ("Bush Policy"), which is deregulation long-sought by Alascom, but the Commission has not considered other necessary determinations which are indivisible aspects of the Bush Policy.

More than two years ago, AT&T and Alascom asked the Commission to repeal the Bush Policy² and, therefore, they support the Commission's proposed repeal now: "...the repeal of the Bush Policy would allow unfettered

¹ See *Policy for Licensing Domestic Satellite Earth Stations in the Bush Communities of Alaska*, IB Docket No. 02-30 and RM No. 7246, *Notice of Proposed Rulemaking* (FCC 02-37, rel. February 15, 2002) ("NPRM"). The Notice was printed in the Federal Register on May 30, 2002, with comments due on July 1, 2002.

² See *AT&T Corp. and Alascom Inc. Petition for Elimination of Conditions Regarding the AT&T-Alascom Relationship*, filed March 10, 2000, initiating a pleading cycle under CC Docket No 00-873 ("Petition").

facilities based entry into the Alaska Bush and would smooth the way for more competitive service offerings by AT&T.”³

Unfortunately, the NPRM is half a loaf. The Bush Policy is the single basis for the Commission's classification of Alascom's provision of service to the Bush as "dominant." The only "dominant" interstate interexchange service of AT&T or Alascom is Alascom's common carrier services under its Tariff No. 11 ("the CCS Tariff"). Because the Bush Policy is the only legal justification for the CCS Tariff, the Commission should not consider eliminating the Bush Policy, without simultaneously granting Alascom's longstanding request for reduced regulation of its CCS Tariff.

The CCS Tariff was imposed on Alascom in the Commission's 1994 *Alaska Market Order* because Alascom had a *de jure* monopoly (*i.e.* the Bush Policy) for earth station facilities providing switched services to and from Alaska Bush communities. The draconian ratemaking system in the CCS Tariff was intended to prevent Alascom's theoretical ability to inhibit competing carriers' service to the Bush by improperly loading costs into the Bush service and cross-subsidizing the costs of more competitive non-Bush services. Repeal of the Bush Policy entirely eliminates even the theoretical possibility that Alascom could hamper competition based upon a *de jure* facilities monopoly. Repeal of the Bush Policy makes facilities-based competitive entry in the Bush subject to the same regulation as everywhere else in the United States.

³ *Id.* at pp. 2-3.

The CCS Tariff is a unique form of regulation that is particularly burdensome, and discriminatory, to Alascom. The CCS Tariff requires that Alascom disaggregate all of its service costs within Alaska by location -- resulting in more than 900 separate cost points. No other carrier has ever been forced to provide a service based upon stand-alone location-specific costs. The tariff imposes anticompetitive regulatory burdens on AT&T and Alascom, impeding the delivery of improved customer benefits, and unnecessarily burdening the Commission's resources. *See Petition* at p. 19.

Whatever its merit might have been almost ten years ago, the CCS Tariff has outlived its usefulness. Attached to these Comments, and submitted into the record of the NPRM, is a copy of the Petition. The facts established in the Petition include:

- AT&T is the only substantial "customer" of Alascom's CCS service. Under the CCS Tariff, AT&T provides 99% of all non-Bush traffic, and 84% of all Bush traffic, representing 97% of total CCS traffic. *See Petition* at p. 21.
- By 1999, at least two interexchange carriers had facilities-based access to more than 90% of all Alaskan access lines. *See Petition* at p. 5.
- By 1998, General Communication, Inc. ("GCI") had a market share in interstate traffic of 45.5 percent (647,134,000 minutes as reported in GCI's 1998 10-k) and Alascom had a market share of 54.5 percent (776,469,000 minutes as reported in the 1999 CCS D&J). In 1993, GCI held approximately 33 percent marketshare. *See Petition* at pp. 6-7
- GCI obtained a waiver from the Bush Policy and is serving more than 50 Bush locations, representing a substantial majority of originating and terminating Bush traffic. *See Petition* at p. 21.
- GCI, strongly positioned in the Internet and cable television markets, has bundled interexchange services, offering "free" residential and

business Internet access to customers taking certain of its long distance plans. *See Petition* at pp 7-8.

- Other carriers, such as Matanuska Telephone Association, Alaska Network Systems and Anchorage Telephone Utility have entered the interexchange market. These carriers have established customer bases, enabling them to be significant interexchange competitors in Alaska. *See Petition* at p. 8.
- Alascom's ownership of undersea fiber-optic cables connecting Alaska to the lower 48 states has declined from almost 90% to less than 10%. *See Petition* at p. 9.

Along with detailing the changes in the market, the Petition enumerated the changes in the legal and regulatory climate since the Commission required Alascom to maintain the CCS Tariff.

- In 1995 for domestic services, and 1997 for international services, the Commission reclassified AT&T and Alascom as non-dominant carriers. That reclassification rested upon the Commission's finding that AT&T and Alascom lacked market power.⁴
- Section 254(g) of the Telecommunications Act of 1996 codified the Commission's rate integration policy which translates into a requirement that of Alascom's interstate domestic rates be the same as AT&T's for all customer purchasing services subject to rate averaging requirements. *See* 47 U.S.C. § 254(g); *see also Petition* at p. 5.

As a result of the above essential facts and changes in the law, AT&T and Alascom requested the following relief from regulation of the CCS Tariff:

⁴ *Motion of AT&T Corp. to be Reclassified as a Non-Dominant Carrier*, Order, 11 FCC Rcd 3271 (1995) ("AT&T Reclassification Order"); Order on Reconsideration, Order Denying Petition for Rulemaking, Second Order on Reconsideration in CC Docket No. 96-61, 12 FCC Rcd 20787 (1997) ("Reclassification Reconsideration Order"), *Motion of AT&T Corp. to be Declared Non-Dominant for International Service*, Order, 11 FCC Rcd 17963 (1996). The Commission has concluded that "AT&T/Alascom [is] within the scope of the classification of AT&T as non-dominant in the provision of interstate, domestic interexchange services." Reclassification Reconsideration Order, p. 20804. *See also, Petition* at pp. 4-5.

- Authority to cap CCS rates at their current levels. *See Petition* at pp. 23-24. No further rate adjustments would be required.
- Enter into a two-year monitoring period during which the Commission and interested parties would be able to monitor the Bush service while AT&T and Alascom would offer services more efficient than CCS, and thereafter terminate the tariff. *Id.*

The Commission correctly recognized in the NPRM that the Bush Policy is antiquated and should be repealed. As has been amply demonstrated, the required maintenance of Alascom's CCS Tariff rests entirely upon the existence of the Bush Policy, and is intertwined in it. Repeal of the Bush Policy requires the simultaneous reduction of regulation of the CCS Tariff sought by Alascom. That modest deregulation is entirely warranted by the dramatic increases in Alaska competition and fundamental legal and regulatory changes that have taken place since the Commission decided to require the CCS Tariff. Moreover, it would be arbitrary, capricious and discriminatory for the Commission to effect the repeal of the Bush Policy but simultaneously fail to address AT&T and Alascom's requests that are tied to the repeal of the Bush Policy and which have been pending for more than two years.⁵

⁵ Indeed, the Commission requested comment on the Petition on March 17, 2000. *See Pleading Cycle Established for Comments on AT&T and Alascom Petition for Structural and Other Regulatory Relief*, CC Docket No. 00-46, Public Notice, (DA 00-603, 2002).

Therefore, the Bush Policy should be repealed simultaneously with the reduced regulation requested by AT&T and Alascom.

Respectfully submitted,

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